IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

WP(C).No. 30031 of 2007(A)

PETITIONER:

M/S. SREE GANESH TRADERS,
TC 24/934, AMRITHA COMPLEX, THYCAUD,
THIRUVANANTHAPURAM, REPRESENTED BY ITS PROPRIETOR
S.HARI MURALI, S/O. SREEDHARA PANICKER,
RESIDING AT VRINDAVAN, THYCAUD,
THIRUVANANTHAPURAM.

BY ADV. SRI.M.RAMASWAMY PILLAI
SRI.P.M.JOSEPH

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
ITS CHIEF SECRETARY, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE COMMERCIAL TAX OFFICER - I,
1ST CIRCLE, THIRUVANANTHAPURAM.

BY GOVT. PLEADER MR. K.P. PRADEEP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

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W.P.(C) No. 30031 OF 2007 A
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Dated this the 16th October, 2007

J U D G M E N T

Ext.P3 is an order of assessment completed against the petitioner as they had not filed the returns. Following Ext. P3, demand notice has been issued as per Ext.P4. It is submitted by the learned counsel for the petitioner that subsequent to the assessment, Ext.P9 returns were filed and were accepted by the assessing officer. It is on that basis this writ petition was filed challenging Ext. P3.

2. According to the learned counsel, in view of the subsequent acceptance of the returns the assessment order has to be considered as null and void. While I decline to accept this contention of the learned counsel for the petitioner in view of the provisions contained in Section 22(3) and 22(5) of the KVAT Act, the learned counsel today submits that the assessing officer has now returned Exts.P5 and P7 to P9 returns filed by the petitioner.

3. In view of this, the only course open to the petitioner is to file an appeal against Ext. P3 order of assessment. With that liberty the writ petition is closed.

ANTONY DOMINIC
JUDGE

jan/-